

REMARKS1. Status of claims

Claims 99-194 are pending.

2. Claim rejection under 35 U.S.C. §103

Claims 99-194 are rejected under 35 U.S.C. §103 as being unpatentable over Ching et al., U.S. Pat. No. 5,859,145 ("Ching") in view of Nordstrom, U.S. Pat. No. 3,536,687 ("Nordstrom"). Specifically, the Examiner alleges that Ching teaches oxygen scavenging polymers having ethylenic backbones and pendant moieties containing cyclic allylic hydrogen, and Nordstrom teaches cyclohexenylalkyl (meth)acrylates and cyclohexenyl alcohols in transesterifications to give rise to cyclohexenyl moieties. Applicants respectfully traverse this rejection.

The present claims are directed to terpolymers comprising, inter alia, cycloalkenyl pendant groups and ethylenic groups, as well as further compositions and structures comprising these terpolymers. Nordstrom discloses only homopolymers or copolymers comprising cycloalkenyl moieties, but does not disclose terpolymers thereof, and further does not disclose polymers comprising ethylenic groups (e.g., col. 2, line 71-col. 3, line 22). Therefore, there is no motivation in Nordstrom to prepare terpolymers comprising cyclohexenyl moieties and ethylenic groups. Ching, meanwhile, does not point one of ordinary skill in the art to the terpolymers comprising structure II recited in the present claims. The usefulness of such terpolymers thus could not be predicted by one of ordinary skill in the art.

Further, one of ordinary skill in the art would not be motivated to combine these references. Ching is directed to compositions capable of being formed into a container and scavenging oxygen in the sealed container. Ching teaches that the scavenging capacity depends primarily on the amount and structure of oxygen scavenging moieties in the container (col. 29, lines 48-50). Ching is silent with regard to crosslinking of oxygen scavenging moieties, but one of ordinary skill in the art would reasonably conclude that crosslinking of oxygen scavenging moieties in a container of Ching would be undesirable, for two reasons. First, crosslinking would be expected to consume oxygen scavenging moieties without scavenging oxygen, thus lowering the scavenging capacity. Second, crosslinking between polymer components within a three-dimensional container may lead to changes in the physical properties of the container that may interfere with its desired function as a container.

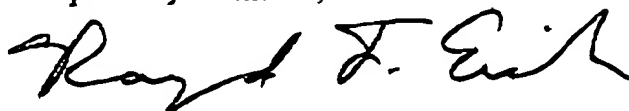
Nordstrom, in contrast, teaches the use of polymers with cyclohexenyl moieties as being especially prone to crosslinking in the presence of air (col. 1, lines 42-46). The polymers of Nordstrom are taught to be particularly useful in forming coating compositions (col. 1, lines 28-31), due in part to a film derived from the compositions having greater hardness and brittleness, i.e., changes in physical properties, as a result of crosslinking between cyclohexenyl moieties. Therefore, one of ordinary skill in the art would not be motivated to apply the teachings of Nordstrom to development of oxygen scavenging polymers as taught by Ching.

Therefore, Applicants believe claims 99-194 are patentable over Ching in view of Nordstrom.

3. Conclusion

In conclusion, Applicants are of the opinion all pending claims 99-194 are in condition for allowance. The Examiner is invited to contact the undersigned patent agent at (713) 934-4065 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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February 28, 2002